



The Salisbury Planning Board held its regular meeting Tuesday, July 28, 2009, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Karen Alexander, Dr. Mark Beymer, Maggie Blackwell, Robert Cockerl, Tommy Hairston, Richard Huffman, Craig Neuhardt, Albert Stout, and Bill Wagoner

ABSENT: Valarie Stewart and Diane Young

STAFF: Dan Mikkelson, Preston Mitchell, Diana Moghrabi, David Phillips, and Patrick Ritchie

This meeting was digitally recorded for *Access 16* television by Jason Parks. Mark Wineka of the *Salisbury Post* was present.

Chairman Robert Cockerl called the meeting to order and offered an invocation. The minutes of the June 30, 2009, meeting were approved as submitted. The Planning Board adopted the agenda as submitted.

Robert Cockerl read the Courtesy Hearing explanation and procedures.

NEW BUSINESS

A. District Map Amendment

CD-4-06-2009 Sam Collins
1817 East Innes Street
Tax Map - Parcel(s): 071-208

Preston Mitchell made a staff presentation that introduced on-site video that will air on *Access 16* television and offers a better feel for the property than static photos.

The request is to amend the Land Development Ordinance and District Map by rezoning approximately 0.54 acres (1 parcel) to establish a Conditional District (CD) Overlay to permit the development of a 2-story 5,886-square foot office building (Engineering office).

The petition does not propose to change the existing RMX base district; only to newly adopt the Conditional District Overlay. A General Development-A Overlay currently exists on the property, including four others in the immediate vicinity, and will remain unchanged. (The property is actually split-zoned RMX on the front $\frac{3}{4}$ and the back is GR-6.)

The General Development-A Overlay is intended as an area where any use authorized in the base (underlying) zoning district shall be permitted only when it is developed and maintained in accordance with a site plan approved by the City Council.

No use limitations are proposed for this Conditional District; therefore, all permitted and special uses listed for the RMX base district will be permitted by right unless restricted by City Council as part of the adoption of this ordinance. *See Use Matrix in Chapter 2 of LDO*

The one- half- acre tract is currently undeveloped. The site contains some topography which slopes down towards East Innes Street.

Vehicular access to the site is limited to three points of ingress/egress. The primary point is off East Innes Street adjacent to the ingress/egress point for Dr. Anderson's office. In addition, two points of interconnectivity have been provided to the abutting parcels. The point of connection to the rear of Dr. Anderson's office will be improved and available as part of the initial development; however, the point of connection to the north ("west") will be provided if and when the adjoining property is redeveloped.

2007 NCDOT AADT (Average Daily Trips) is 13,000 on East Innes Street just "east" of Avalon Drive.

A 6-foot sidewalk exists within the East Innes Street right-of-way and no new streets are proposed as part of this development.

This plan proposes an alternative parking lot design by proposing two (2) rows of parking along East Innes Street as well as two (2) rows of parking at the rear of the site. They are requesting setback change away from East Innes Street.

The Conditional District petition and associated Master Plan were first reviewed by the city's Technical Review Committee (TRC) on June 18, 2009. Staff and other reviewing agencies discussed the proposal with the petitioner's representative. Comments were generated and delivered to the petitioner for their consideration. All TRC comments were appropriately addressed.

Those speaking in opposition

NONE

Those speaking in favor

Diane Gibbs of Ramsay, Burgin, Smith Architects made herself available for questions on Sam Collins behalf. She complimented the LDO and working with staff.

Board Discussion

Dick Huffman asked about screening. Diane Gibbs responded that there is a 15' rear landscape yard per Salisbury's landscape ordinance. There will be a combination of hollies, cedars and crepe myrtles.

Maggie Blackwell commented that she liked the staff video report. It was easier to get a feel of the area and she appreciated the effort that it took.

Mark Beymer made a MOTION stating that “The Planning Board finds and determines that CD 4-06-2009, Sam Collins/Gamewell Engineering, is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends approval to City Council.” **Tommy Hairston** seconded the motion.

Dick Huffman said that, “Since the 2020 Plan provides that the building should be at the front of the property and all parking behind, I am not sure that it is entirely consistent. But, based on the lay of the land I don’t have any trouble approving it.” Karen Alexander agreed. (This property is not in the East Innes Street Overlay.)

Karen Alexander continued to say that, “Since the TRC approved it unanimously, it may be appropriate for the motion to be for approval and not consistent. The Vision 2020 states that everything should be pulled up to the street on a major thoroughfare. Because of the topography, there is a reason for development without consistency.”

Mark Beymer suggested that, in his opinion, it is consistent, but the net outcome is the same in terms of moving it forward. If that would be acceptable by the majority, he will modify the motion to say it is inconsistent with the 2020 Plan. **Tommy Hairston** agreed to amend his second.

The MOTION was amended to say, “The Planning Board finds and determines that CD-4-06-2009, Sam Collins/Gamewell Engineering, is not entirely consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan; however, this board recommends approval based on the topographic challenges associated with the site that necessitated the specific design, and hereby recommends approval.” All members voted AYE. (8-0)

B. Group Development

G-23-07 Marriott Courtyard
Marriott Circle Off of E. Innes Street
Tax Map 059, Parcel 135

Mr. Bhupendra Patel, submitted the application requesting a revision of the previous approval regarding a modification of the building footprint and building elevations. The Technical Review Committee recommends approval of the request contingent upon the following comments being addressed;

1. The current location shown for the dumpster is encroaching into the sanitary sewer easement which will not be allowed. Revise plan to show new location.
2. Revise the site plan to show the hotel parcel only.

This is on the site of the old Howard Johnson's that has been removed. This was approved under the previous zoning ordinance; we did not have design standards then as we do now.

David Phillips told Planning Board that the Marriott Courtyard has changed their prototype. The rooms were reduced from 99 to 94 rooms. Staff felt that there was enough change to bring it before Planning Board and City Council as a modification to the approved group development plan. Connectivity through the Cracker Barrel parking lot will still be constructed with the completion of the hotel.

Staff is making a recommendation, with a unanimous vote, that the revisions be approved.

Dick Huffman recused himself, since he has previously done some work on this site for Kelly Properties.

Those speaking in opposition
NONE

Those speaking in favor
NONE

Kevin Rosensky with Wilson & Lysiak Inc., Engineers in Greensboro, NC, represented the owner. The property was purchased from Mr. Kelly by BPR Properties. They still intend to build a 4-story, 94-room Marriott Courtyard to the latest prototype standards.

They have added a lot more curves to the ground floor of the hotel. Materials on the building are the same as originally proposed.

Craig Neuhardt made a MOTION to send a recommendation to approve Group Development G-23-07, Marriott Courtyard to City Council. **Albert Stout** seconded the motion with all members voting AYE. (7-0) Dick Huffman was returned to the dais.

G-09-03 Gables at Kepley Farms
 1900 Block Faith Road
 Tax Map 403, Parcels 001, 092

This item was previously approved under the old zoning ordinance. David Phillips made a staff presentation. This application was submitted July 1, 2009.

Community Bank submitted the group development application to request a revision be granted regarding the removal of a second entrance condition that was placed upon the previous approval of the subdivision. Attorney John W. Dees, II, representing the bank, stated that the request was due to foreclosure of the property (rear portion); the bank now has an interested buyer. The condition for the second entrance would be cost prohibitive and would result in the bank losing the sale.

Mr. Dees determined that the subdivision, as designed, meets the current Land Development Ordinance pertaining to proposed future stub outs. The current ordinance would not require a second entrance for this property.

A new traffic impact analysis was conducted by the City's Traffic Engineer. Results show 175 lots could be developed without significant traffic impact. Mr. Dees point out that this most recent study averaged 1,001 daily trips daily; this is much less than the 1742 average daily trips originally calculated and the condition for the second entrance was placed upon the approval.

The Technical Review Committee voted 8-1 to recommend approval to the Planning Board to remove Note #24 which required a second entrance be added to the subdivision after 100 lots were developed.

Note #24 dated (drawing dated 8/19/04) reads: The original approval is valid for the first 100 lots. Additional lots will require additional traffic analysis to determine if access is sufficient. To simplify the traffic study and avoid delays, the developer has agreed to notify the City when he has 50 occupied homes. The City will take traffic counts at that time and assume they are proportionately representative of the traffic patterns that would occur with a greater number of occupied homes. Based on the original approval, the developer can proceed with Phase 2 or Phase 3 (but not both) before additional traffic studies are conducted.

Those speaking in opposition

Lisa Painter, 225 River Birch Drive, addressed comments in the agenda packet. There are currently 66 homeowners living in the Gables, there are 6 unoccupied houses, 8 lots remaining in Phase I that have not been built, and 28 lots in Phase II that have not been built. That means there are 36 vacant lots, along with the 66 homeowners that currently live there and the 6 unoccupied houses—that is 108. If all the vacant homes and lots were occupied, you would see traffic counts closer to the 1,742 trip.

The future increase of traffic is of great concern to the residents.

This seems to be all about a sale—a bank making a sale to a prospective buyer. This should be more about the 66 families who live out in the Gables and less about a business deal.

Robert Wilhelm, 216 Garner Drive, said this is about a lot more than just traffic flow. This is a high-density neighborhood. The houses are close to the street. There is quite a bit of parking in the street which causes it to operate as a one-lane street. This appears to be a fire and safety issue for this community of aging adults. Any catastrophe that would block the entrance would be critical to the residents with no alternative way in or out.

There are sidewalks on both sides of the street; many people walk in the neighborhood for health and pleasure. Valley curbing was permitted which gives walkers no protection. He agreed with Lisa Painter's comments.

Glenda Wilhelm, 216 Garner Drive, read her statement.

"I am in opposition to eliminating the second entrance of the Gables. I feel that one entrance would place entirely too much traffic on Garner Drive and create a safety hazard for those of us [who live there]. When we purchased our homes, we were told that there would be a second entrance when Phases III, IV and V were developed. I think that when the bank loaned Mr. Burgess the money, that restriction was on there. He should have known there was supposed to be another entrance. They did know that Mr. Burgess did not have access to that plan either. I would certainly hope that we do not have to pay for something that should have been found when they made the loan to him. Hopefully, a developer could secure the land that he needs to make another road."

"I am all for them developing it, but I don't think it should be developed at the expense of us that moved there thinking we were going to have another entrance, another way in and out of there."

Frances Yates, 301 Garner Drive, stated that she and her husband moved into their home three years and eight months ago. She uses a motorized wheelchair outside; sometimes it is frightening to live there.

Mrs. Yates submitted letters to staff (David Phillips confirmed six signatures) on behalf of residents who could not attend the meeting. She asked Planning Board not remove the hope of establishing a second entrance.

Phyllis Hanna, 212 Garner Drive, believes that the idea of a second entrance was very intelligent. It is too early to decide against the second entrance.

Yvonne Cregger, 220 Garner Drive, agreed with her neighbors. She added that there will also be construction traffic in the future that has not been considered.

Genevia Mozolak, 107 River Birch Drive, echoed her neighbors. Two entrances provide residents opportunity for safe exit and access for rescue services.

Ginny Lee Smith, 300 Garner Drive, opposes not have two entrances to the neighborhood.

Ken Smith, 300 Garner Drive, moved here from Greensboro to live at the Gables. He has concerns about construction traffic and damage to curbs and sidewalks.

Rick Painter, 225 River Birch, stated that he opposed the deletion of a second entrance.

Wilma Harper, 305 Garner Drive, opposed the deletion of a second entrance.

Jean Painter, 415 Garner Drive, said she is in favor of two entrances to the Gables.

Sandra Cody, 311 River Birch Drive, (Phase II) said she has had many broken promises and would like to see this one kept. She is in favor of two entrances to the Gables.

Rita Ennis, 221 River Birch Drive, reminded Planning Board that this is a retirement community. The population here will have more health issues than normal and need the second entrance.

Jim Lefler, 229 River Birch Drive, said he is in favor of two entrances to the Gables. He was told that the second entrance would be installed when the other phases were completed. He was told a lot of things that have not happened.

He believes that three-fourths of the residents did not get counted in the traffic counts. He drove around it because he did not know what it was; therefore, the traffic count is not true.

Jean Lefler, 229 River Birch Drive, believes that there is more traffic than counted.

Mary Green, 249 River Birch Drive, said she is in favor of two entrances to the Gables.

Clyde Yates, 301 Garner Drive, agreed with his neighbors. There is a dangerous curve on Faith Road near the entrance to the Gables. This adds to the potential for fatalities and other problems.

Jewell Roberts, 215 Garner Drive, agreed with her neighbors. She is in favor of two entrances to the Gables.

Elizabeth Parker, 219 Garner Drive, wants this promise for a second entrance kept; so many promises have been broken.

Joann Schoch, 223 Garner Drive, agreed with her neighbors.

Those speaking in support

Jay Dees asked if those who were stakeholders could speak in support. The Chair gave stakeholders the standard choice of three minutes in the beginning and three minutes at the end of the courtesy hearing or a total of six minutes at the end of the courtesy hearing. Given those choices, they took six minutes at the end of the courtesy hearing. Maggie Blackwell asked the Planning Board to revisit this process in the near future. The Chair closed the Courtesy Hearing.

Jay Dees and Seamus Donaldson addressed the Planning Board.

Seamus Donaldson, Community Bank of Rowan, 322 East Innes Street, has also had promises to them broken and empathize with the folks in the subdivision. He believes to

have been good stewards with their property and have recently funded a loan at low cost and low interest for their group to help complete the clubhouse (they had no obligation to do so). They even agreed to fund the opening celebration for the subdivision in their beautiful new clubhouse.

They made their loan based on the February 2005 approval that had no requirement for traffic studies. It was a great surprise to find that there is this item #24. The bank does not own property around the subdivision and does not know what to do. The bank wishes to honor the residents in the Gables; they have developed a relationship with their board of directors.

Mr. Donaldson believes they meet the spirit of the previous ordinance.

[Item #24 was not on the loan documents and the plats (February 2005) Community Bank reviewed. Dan Mikkelson recounted that City Council approved the project with this condition, but the site plan that was submitted to the Mayor for her signature did not include this restriction; the minutes of the meeting included the restriction. At a later date, the developer submitted a minor revision to the plan and on that version that was submitted to the Mayor the error was corrected and that restriction was included. The second plat would have taken the place of the first.]

The new loan is scheduled to close August 31, 2009.

Jay Dees stated that the condition never guaranteed a second entrance; it said that further impact studies would be taken and determined at that time. The traffic counts have determined that there are 3.85 traffic trips per unit per day. This is substantially lower than what was originally predicted by staff in September of 2005. The old ordinance did not have any connectivity or traffic standards in it. A different standard was applied to this subdivision than any other in town.

Mr. Dees asked Planning Board to look at this in terms of the new Land Development Ordinance (LDO) where there are standards to deal with this issue. The new LDO would not require a traffic impact analysis because this development is expected to generate less than 3,000 daily trips. (Ch 4.14)

Mr. Dees distributed a plat that indicates the connectivity index. The new LDO would require four stub outs based on a different formula. They are showing the four stub outs that would be in place with the subdivision is built out. The connectivity index requirement minimum is 1.4 for GR-zoned property. The very minimum under any scenario they ran was 1.41. Patrick Ritchie concurred with his calculations.

Fire, Emergency, Planning Staff, Traffic— 8-1 voted to strike this condition. Technically, it meets the new standards. (These are not new lots being added.)

Board Discussion

Bill Wagoner joined the meeting at 4:58 due to his attendance at an HPC meeting. He asked to see the second entrance upon which the bank is basing their cost estimate.

Jay Dees responded, “There are none. What you have are large tracts that surround to the south, west, and north that would have to be acquired to get access—either to Oakview Commons or to get out to another thoroughfare.” There is no viable access out to Faith Road to create a second entrance; you would have to go out one of the sides or to the rear.

Bill Wagoner asked if there was nothing in item #24 (on the approved group development plan) that contractually obligated the developer to build a second entrance. How was this second entrance to occur being that the boundaries of this plat do not control the adjacent property? Was there ever a plan that was practical and doable? Is Planning Board being asked to recommend to City Council they change the condition of its original group development that would allow the new purchaser of this property in foreclosure to be able to develop lots?

Dan Mikkelsen recalled that it was conceivable that a neighboring property could have developed to the point where the developer could connect to it in a cost-effective manner, or he could acquire a neighboring property that would allow the developer to connect through that. There may come a point in time where the developer would have to wait until additional access was available.

Jay Dees said he had all the recorded plats (nine beginning in May of 2005) in the public record on which people would rely. That condition does not appear in any of these.

Lisa Painter said that when the residents bought their homes, they were told by James Burgess, developer, that Phases I and II would consist of approximately 100 homes. After the completion of Phases III, IV, and V there would be a second entrance. He told them that this was required because of a stipulation of over 100 rooftops. How they got that second entrance was not of any concern to the buyers. Possible locations were discussed—going out to Old Concord Road, perhaps to Heilig Road or even down from the current entrance on Faith Road.

Maggie Blackwell told the residents that this is hard for Planning Board, too. Is it my understanding that the residents are asking Planning Board to decide “for a non-existent owner to be required to purchase land that is not necessarily for sale to provide a second entrance to your development?”

Robert Wilhelm, 216 Garner Drive, asked, “Based on things that have been approved and put into place prior (we have been made promises that there would be a second entrance)...that is a big issue from the safety standpoint, emergency standpoint...we would ask that rather than just wipe it off the slate, honest efforts are made to do what has been requested to be done. Yeah, it is not going to be cheap...We are all kind of in this together. That does not negate the fact that traffic studies are not the big deal—it’s the other...moving traffic around 100 acres when things are not normal is the big deal.”

Dick Huffman stated that the study shows that one access is sufficient. The additional traffic study has been performed and access is sufficient. I don't see where #24 requires a second entrance.

Dan Mikkelson said the study showed that the issue that was the greatest concern (he recalls) the volume generated would be acceptable. The study also showed that there would be about 1,000 vehicles per day traveling through Phase I if all lots were developed and if no second entrance was created. In other neighborhoods around Salisbury we start to receive complaints about traffic when the daily traffic through a neighborhood is in the range of 800-900 vehicles per day.

Maggie Blackwell made a MOTION to go beyond 6 p.m. All agreed.

Maggie Blackwell made a MOTION to send G-09-03 to committee. Albert Stout seconded the motion. Albert Stout requested documentation regarding the origination of Note #24.

Those in favor of sending G-09-03 to committee were Tommy Hairston, Robert Cockerl, Albert Stout, Karen Alexander and Maggie Blackwell. Those opposed to sending it to committee were Mark Beymer, Bill Wagoner, Craig Neuhardt, and Dick Huffman.

A newly formed Committee 3 (Bill Wagoner, Chair; Tommy Hairston, Co Chair; Mark Beymer and Craig Neuhardt) will meet Friday, July 31 at 9 a.m. in the second floor conference room at City Hall. The secretary will post the notice at City Hall. Craig Neuhardt said he would not be available.

Maggie Blackwell requested that the Planning Board evaluate the 6 and 3-minute rule at the August 11 meeting.

Planning Board took a short break while the chamber cleared.

COMMITTEES

Planning Board Legislative Committee B (Albert Stout, Chair; Craig Neuhardt, Vice Chair; Bill Wagoner, Diane Young, Tommy Hairston, and Maggie Blackwell) met at 4 p.m., July 14, 2009, at 217 S. Main Street to discuss sidewalks in industrial zoning districts.

Below are excerpts from the minutes of that meeting.

Maggie Blackwell made a MOTION to allow anything scored in black an exemption—they pay nothing “in lieu” and do not have to install sidewalks in any zoning district. Red, orange, yellow scores are non-negotiable and are required to install sidewalks. Blue or green scores either build the sidewalks or receive a 50 percent discounted price “in lieu”

to go toward an area installation where the need for sidewalks is greater. Purple scores build sidewalks or allowed payment in lieu at a 75 percent discount. Diane Young seconded the motion. All members voted AYE. (5-0)

Diane Young also recommended preparing a text amendment requiring sidewalks for internal streets in residential development even if there is no public street.

Preston Mitchell will apply this recommendation to paper. The language for the text amendment will be presented by staff at the August 11 meeting.

In the interest of time, the minutes of the meeting were distributed to Planning Board and discussion will resume at the next regular meeting.

- Copies of the Planning Board 2009-2010 Committee Assignments will be distributed at the next regular Planning Board meeting.

The next Planning Board meeting will be August 11, 2009.

There being no further business to come before the Planning Board, this portion of the meeting was adjourned at 6:30 p.m.

A presentation of the proposed comprehensive bicycle plan followed after a refreshment break. The presentation was offered by Wilbur Smith, Associates—consultants for the project.

Robert Cockerl, Chair

Diana Moghrabi, Secretary